

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00729R

Parcel No. 100/02319-000-000

Ellen Yee,

Appellant,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 4, 2016. Ellen Yee was self-represented. Assistant County Attorney Mark Taylor represented the Polk County Board of Review.

Yee is the owner of a one-and-one-half-story, residential brick dwelling located at 4221 Adams Avenue, Des Moines. The dwelling has 1687 total square feet of living area; a full-unfinished basement; and a 420-square-foot attached garage. It also has an open porch, an enclosed porch, and a deck. The dwelling was built in 1934 and is listed in very good condition and with average quality construction (Grade 4+00). The site is 0.221 acres. (Ex. C).

The property's January 1, 2015, assessment was \$208,500, allocated as \$38,100 in land value and \$170,400 in improvement value. Yee protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review denied the petition.

Yee then appealed to PAAB. She believes the subject property's correct assessment is \$203,500.

Findings of Fact

Yee identified four properties on Adams Avenue she considered comparable to the subject property. All four properties are similar in site size, style, age, location, and construction quality, but have lower assessments. (Exs. A & B).

| Address | TSFLA | Enclosed Porch sf | Toilet/Extras Baths | Deck sf | Fireplaces | Garage sf | 2015 AV |
|------------|-------|----------------------|------------------------|---------|------------|-----------|-----------|
| Subject | 1687 | 329 | 2 | 144 | 3 | Att 420 | \$208,500 |
| 4215 Adams | 1815 | 270 | 1 | None | 1 | Det 456 | \$187,700 |
| 4225 Adams | 1855 | None | 1 | None | 1 | Det 576 | \$181,900 |
| 4220 Adams | 1670 | None | 1 | None | 1 | Det 576 | \$178,600 |
| 4229 Adams | 1876 | None | 1 | None | 1 | Det 440 | \$179,800 |

Yee noted all of these properties are on her street. Further, she noted that all of the properties were fairly similarly sized and all have a garage although hers is the only attached garage. Yee also believes some of the features her property possesses that increase its value is offset by some of the other properties larger and different features.

Amy Rasmussen, Director of Litigation for the assessor's office, testified on behalf of the Board of Review. She explained that Yee's property has many features that her comparables lack, which result in her higher assessment. For example, Rasmussen indicated Yee's property has an additional bathroom that the comparables do not. Similarly, we note Yee's comparables each have one fireplace whereas Yee's dwelling has three fireplaces. Additionally, the value of the compared properties' detached frame garages, some larger than Yee's garage, are less than the value of Yee's attached garage that is 100% brick. All of these differences are noted on the cost reports for each property. (Ex. B). . The higher costs associated with the subject property's superior features and amenities combine to increase the assessed value of Yee's property as compared to the properties Yee has identified as comparable.

Moreover, there is no evidence of recent sales of the subject or compared properties, or other evidence of their fair market values. Consequently, it is impossible to develop an assessment/sales ratio for equity analysis.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). In this case, Duster did not shift the burden, and therefore, must prove the assessment is inequitable based upon a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those

properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Yee offered four properties she considered comparable for an equity analysis. While the properties were similar in age, style, grade, size, and location, none of the properties were recent sales. Further, Yee offered no evidence of the subject’s fair market value, such as an appraisal, comprehensive market analysis, or recent sales of comparable properties. Because there is no evidence of the subject’s market value and no evidence of recent comparable sales, we were unable to develop an assessment/sales ratio for Yee’s property as required by *Maxwell* to complete the equity analysis. Additionally, Yee did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, Yee failed to show her property is inequitably assessed.

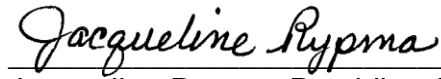
Order

IT IS THEREFORE ORDERED that the Polk County Board of Review’s action is affirmed.

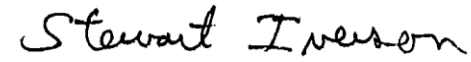
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court

where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

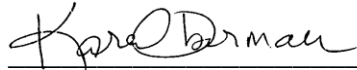
Dated this 11th day of March, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Ellen Yee

Mark Taylor